



IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

10 EUGENE ROSENFELD, On Behalf : CASE NO. CV 08-03381 SVW (CTx)
11 of Himself and All Others Similarly :
12 Plaintiff, :
13 vs. :
14 GATEWAY, INC., :
15 Defendant. :
16

[PROPOSED] FINAL APPROVAL
ORDER AND JUDGMENT
Date: March 16, 2009
Time: 1:30 p.m.
Judge: Stephen V. Wilson
Courtroom: 6

17 Plaintiff, Eugene Rosenfeld ("Plaintiff" or "Rosenfeld"), on behalf of himself
18 and the Settlement Class, having filed a motion ("Motion") for an order
19 preliminarily approving the Settlement Agreement ("Agreement") entered into by
20 the parties to this action; Defendant, Gateway, Inc. ("Gateway"), having filed any
21 papers in support of approval of the settlement; the said Motion, having come on
22 regularly for hearing before the above-entitled Court; the Court having entered its
23 Order Regarding Preliminary Approval of Class Action Settlement on December
24 12, 2008; the Court having conducted a hearing regarding final approval of the
25 settlement on March 16, 2009 at 1:30 p.m., at which time it considered any
26 objections filed with or presented to the Court and the parties' responses thereto;
27 the Court being fully advised in the premises and good cause appearing therefor, the
28

1 Court enters its order granting final approval of the settlement, and finds and orders
2 as follows:

3 1. The Court has jurisdiction over the subject matter of this Action and all
4 parties to this Action, including all members of the Settlement Class as defined in
5 Section I(F) of the Settlement Agreement (“Agreement”) previously filed in this
6 Action.

7 2. The Agreement and the settlement set forth therein are found and
8 determined to be fair, reasonable, and adequate, and are hereby approved and
9 ordered performed by all parties to the Agreement.

10 3. The Court has determined that the notice given to the Settlement Class
11 fully and accurately informed the Settlement Class of all material elements of the
12 proposed settlement and constituted the best practicable notice to all members of
13 the Settlement Class and fully meets the requirements of due process.

14 4. Immediately upon entry of this Final Approval Order and Judgment,
15 the Complaint in this Action shall be dismissed in its entirety with prejudice. This
16 dismissal shall be without costs to any party, except as specifically provided for in
17 the Agreement.

18 5. This Final Approval Order and Judgment applies to all claims or
19 causes of action settled under the terms of the Agreement, and shall be fully binding
20 with respect to all members of the Settlement Class who did not properly request
21 exclusion. The persons who filed timely and valid requests for exclusion from the
22 Settlement Class and who are, therefore, not bound by this Final Approval Order
23 and Judgment, are set forth in Exhibit 1 attached hereto.

24 6. The Court adjudges that the Plaintiff and all members of the
25 Settlement Class who did not properly request exclusion are barred and
26 permanently enjoined from asserting, instituting, or prosecuting, either directly or
27 indirectly, any claims settled under the terms of the Agreement, which they ever
28 had, or now have, to the extent provided in the Agreement.

7. Without affecting the finality of this Final Approval Order and Judgment in any way, the Court retains jurisdiction over (a) the implementation and enforcement of the Agreement until each and every act agreed to be performed by the parties to the Agreement shall have been performed; (b) any other action necessary to conclude this settlement and to implement the Agreement; and (c) the enforcement, construction and interpretation of the Agreement.

8. Neither this Final Approval Order and Judgment, nor the Agreement, nor the fact of settlement, nor the settlement proceedings, nor settlement negotiations, nor any related document, shall be used as an admission of any fault or omission by Gateway or be offered or received in evidence as an admission, concession, presumption, or inference against Gateway for any purpose whatsoever other than in such proceedings as may be necessary to consummate or enforce the Agreement.

9. Class Counsel are awarded costs, expenses, and attorneys' fees in the agreed upon amount of \$300,000, to be paid by Gateway to Lead Class Counsel pursuant to the terms of the Settlement Agreement. Plaintiff is awarded a \$2,500 incentive award to be paid by Gateway pursuant to the terms of the Settlement Agreement.

Dated: May 22, 2009

The Honorable Stephen V. Wilson